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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/919,665	07/31/2001	Clifford Sosin	2001611-0027	4670

7590 09/20/2004

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EXAMINER

AVERY, BRIDGET D

ART UNIT	PAPER NUMBER
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3618

DATE MAILED: 09/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/919,665	SOSIN ET AL.	
	Examiner	Art Unit	
	Bridget Avery	3618	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 May 2004.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7, 11-22, 25 and 26 is/are pending in the application.
- 4a) Of the above claim(s) 6, 13-18, 20 and 22 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5, 7, 11, 12, 19, 21, 25 and 26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. The amendment filed by applicant on May 24, 2004 is acknowledged and has been entered.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 3, 4, 11, 19, 25 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over (Pyzel et al. US Patent 3,852,896 Figures 1-7c in view of Pyzel et al. ('896 Figures 8 and 9).

Pyzel et al. teaches a transferable binding apparatus including: a ship mechanism (14); a binding mechanism (16, 17) affixed to the ship mechanism (14); dock mechanisms (28) adapted to attach to a ski (11) and adapted to receive the ship mechanism (14); an attaching mechanism (29) adapted to attach the dock mechanism (28) to the ship mechanism (14); the binding mechanism (16, 17) includes a safety release binding independently controlling engagement and disengagement of a boot into and out of the transferable binding apparatus without adjustment of the ship mechanism (14) or the dock mechanism (28); the attaching mechanism (29) includes a releasable spring-loaded assembly (30, 65); the dock mechanism (28) is permanently attached to the ski at the time of manufacture; and the binding mechanism (16, 17) is

selected from the group consisting of: an alpine ski binding mechanism, a telemark ski binding mechanism, and a cross-country ski binding mechanism. Regarding claims 25 and 26, applicant's attention is directed to column 4, lines 17-20. The transferable binding apparatus is adapted such that engagement of the ship mechanism with the dock mechanism is independent of boot size **and** binding mechanism type (i.e. the ship mechanism (14) and the dock mechanism (28) could be constructed of any desired size and could be used with any desired binding mechanism type as evidenced by the alternate binding mechanism taught in Figures 8 and 9). See column 2, lines 40-44.

3. Claims 1, 2, 19, 25 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over (Ipen DE 298 20 426) in view of D' Alessio et al. (US Patent 3,838,866).

Ipen teaches a transferable binding apparatus including: a ship mechanism (5 upper member); a binding mechanism (2) affixed to the ship mechanism (5); dock mechanisms (5 lower member) adapted to attach to a ski (4) and adapted to receive the ship mechanism (5); an attaching mechanism (7) adapted to attach the dock mechanism (5) to the ship mechanism (5); the attaching mechanism (7) is selected from the group consisting of: screws (7) and wing-nuts. See Figure 3.

Ipen lacks the teaching of a safety release binding.

D' Alessio et al. teaches a safety release binding (10).

Based on the teachings of D' Alessio et al., it would have been obvious to one having ordinary skill in the art, at the time the invention was made, to modify the ski

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binding of Ipen to be a safety release binding to prevent injury. The combination of Ipen and D' Alessio et al. teaches a transferable binding apparatus that is adapted such that engagement of the ship mechanism (5 in Ipen) with the dock mechanism (5 lower member in Ipen) is independent of boot size **and** binding mechanism type (i.e. the ship mechanism (5 in Ipen) and the dock mechanism (5 lower member in Ipen) could be constructed of any desired size and could be used with any desired binding mechanism type as evidenced by the alternate binding mechanisms taught in Figures 1, 9, 14 and 19). See column 6, lines 45-53. It would have been obvious to one having ordinary skill in the art, at the time the invention was made, to modify the apparatus of Ipen to include the use of interchangeable binding mechanisms to permit the accommodation of boots over a wide range of sizes.

4. Claims 5 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over (Pyzel et al. '896).

Pyzel et al. teaches the features described above.

Pyzel et al. lacks the exact teaching of dock mechanism that is obtained separately and attached to the ski at the direction of the user and the teaching of a binding mechanism that is attached to the ship mechanism at the direction of the user.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide a dock mechanism and a binding mechanism that is attached at the direction of a user, since it has been held that constructing a formerly

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integral structure in various elements involves only routine skill in the art. See *In re Dulberg*, 129 U.S.P.Q. 348.

5. Claims 7 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over (Pyzel et al. '896).

Pyzel et al. teaches the features described above.

Pyzel et al. lacks the exact teaching of a dock mechanism adapted in a pocket configuration with at least one open side to receive a ship mechanism and the ship mechanism adapted to be inserted into the at least one open side of the pocket configuration.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide a dock mechanism adapted in a pocket configuration with at least one open side to receive a ship mechanism and the ship mechanism adapted to be inserted into the at least one open side of the pocket configuration, since it has been held that a mere reversal of the essential working parts of a device involves only routine skill in the art. *In re Einstein*, 8 U.S.P.Q. 167. The method for transferring a binding including the steps of affixing a binding mechanism (16, 17) to a ship mechanism (14); affixing a dock mechanism (28) to a ski (11); inserting the ship mechanism into the dock mechanism; and attaching the ship mechanism (14) to the dock mechanism (28); where the binding mechanism includes a safety-release binding independently controlling engagement and disengagement of a boot into and out of the

transferable binding apparatus (16, 17) without adjustment of the ship mechanism of the dock mechanism would have also been obvious to one having ordinary skill in the art.

Response to Arguments

6. Applicant's arguments filed May 24, 2004 have been fully considered but they are not persuasive. Contrary to applicant's arguments, the transferable binding apparatus is adapted such that engagement of the ship mechanism with the dock mechanism is independent of boot size **and** binding mechanism type (i.e. the ship mechanism (14) and the dock mechanism (28) could be constructed of any desired size and could be used with any desired binding mechanism type as evidenced by the alternate binding mechanism taught in Figures 8 and 9). The lower sole (14), as described by Pyzel, is a binding with one binding type being shown in Figure 2 and another binding type being shown in Figure 8. See column 2, lines 40-44.

Conclusion

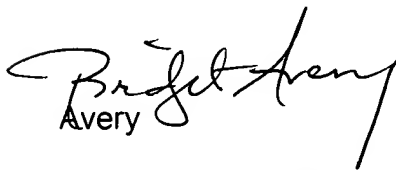
7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not

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mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

8. Any inquiry concerning this communication should be directed to Bridget Avery at telephone number 703-308-2086.


Avery

September 14, 2004



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